

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MIMEDX GROUP, INC.,)	
)	
Plaintiff,)	
)	CASE NO. 1:16-cv-11715-MSS-SIS
-vs-)	
)	
MICHAEL FOX,)	
)	Judge Manish S. Shah
Defendant.)	
_____)	
)	Magistrate Judge Sidney I. Schenkier
MICHAEL FOX,)	
)	
Counter-Plaintiff)	
)	
-vs-)	
)	
MIMEDX GROUP, INC.,)	
)	
Counter-Defendant.)	
_____)	

**MIMEDX GROUP, INC.’S MOTION TO QUASH SUBPOENA AND/OR FOR
PROTECTIVE ORDER**

Pursuant to Rules 26(c) and 45(d)(3) of the Federal Rules of Civil Procedure, Plaintiff MiMedx Group, Inc., (“MiMedx”) by and through its undersigned counsel, respectfully moves this Court to issue (1) an order quashing Defendant Michael Fox’s (“Fox”) subpoena to third party AT&T Mobility Services, LLC (“AT&T”) and (2) a protective order limiting Fox’s discovery of any telephone records relating to cellular telephone accounts maintained by MiMedx. On November 20, 2017, Fox served a notice of subpoena to produce documents on MiMedx, directed to AT&T (the “November 20 Subpoena”). *See* Ex. A.¹ The November 20 Subpoena requested logs of the telephone calls and text messages originated from and received at

¹ The phone number has been redacted for the privacy of the user.

a specified telephone number issued by MiMedx to one of its employees, from November 1, 2016, through the date of the response to the November 20 Subpoena. The request was identical to the requests directed at a number of different telephone numbers, also issued by MiMedx to certain employees, contained in two prior subpoenas, noticed by Fox on November 13, 2017, and directed to AT&T and Verizon Wireless Services, LLC (the “November 13 Subpoenas”).

MiMedx raised certain objections to the November 13 Subpoenas during a Rule 37.2 teleconference with Fox on November 17, 2017. Because the parties were unable to resolve those objections, on November 22, 2017, MiMedx filed a motion to quash the November 13 Subpoenas and/or for protective order and a memorandum in support thereof (collectively, the “November 22 Motion to Quash”). *See* ECF Nos. 130-131. Subsequently, due to the identical nature of the requests contained in the November 20 Subpoena and the November 13 Subpoenas, MiMedx advised Fox that it was raising the same objections to the November 20 Subpoena as it raised with respect to the November 13 Subpoenas. Fox confirmed that he would not withdraw the November 20 Subpoena in response to those objections for the same reasons he would not withdraw the November 13 Subpoenas. Accordingly, in the interest of preserving judicial resources, MiMedx hereby incorporates by reference the arguments contained in its November 22 Motion to Quash in support of the instant motion.

WHEREFORE, MiMedx respectfully requests that this Court issue an order quashing the November 20 Subpoena and a protective order limiting Fox’s discovery of any telephone records relating to cellular telephone accounts maintained by MiMedx.

Dated: December 1, 2017.

Respectfully submitted,

PLAINTIFF MIMEDX GROUP, INC.

/s/ David M. Pernini

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CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following counsel of record for the parties in this action:

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